

REMARKS

This Request For Continued Examination (RCE) is being filed so as to provide amendments to the claims in order to respond to the remarks of the Examiner in the Office Action of November 13, 2006.

First, it is seen that the specification is amended so as to be consistent with original claim 18, which relates to the hydrogenation of the styrene in stream 23(b), noting further the last two sentences on page 23 of the specification which refers to said hydrogenation.

With respect to the claims, it is seen that claim 1 is amended by incorporating the limitation that the content of ethylbenzene is minor compared to metaxylene and orthoxylene. As such, for reasons previously set forth, Applicants' claimed invention is clearly unobvious over the cited prior art. Moreover, the test of obviousness is not whether two different processes achieve the same result, but rather whether the differences between Applicants' process and the prior art processes are such that Applicants' claimed process as a whole would have been unobvious to one of ordinary skill in the art at the time the invention was made. It is respectfully submitted that Applicants' invention clearly meets this test. For this analysis, the Examiner must analyze the prior art objectively as if Applicant's invention was unknown and determine the realistic teachings therein. It is error to use an Applicant's invention as the starting point and to try to piece together the invention. Furthermore, it has long been held that it is unnecessary to show that the invention has advantages over the prior art so long as the claimed invention is unobvious, *In re Ratti* 270 F2d 810, 123 USPQ 349, (CCPA 1959).

As for advantages, it has also long been ruled that it is unnecessary to incorporate advantages into claims. *In re Estes* 164 USPQ 519 (CCPA 1970) and in accord *In re Fenton* 171 USPQ 693 at page 695, CCPA (1971). Nevertheless, it is seen that the amendment to claim 39 requires that the isomerization (24) be conducted in the liquid phase which is one of the advantages described on pages 11 and 12. Likewise, new claim 41 refers to still another advantage wherein the isomerized stream (25) represents 60-80% by weight of the total flow to the distillation column 2, and because of this proportion which has less than 10% by weight of ethylbenzene, the downstream adsorption step (6) is more efficient.

Applicants also rely on the remarks set forth in the response to the FINAL Rejection and incorporate same herein. There was a typographical error, however, on page 2, 6th line from the bottom wherein "ethylene" should have been "ethylbenzene".


Finally, newly added claim 42 is based on the numerical amounts of ethylbenzene described in the working example in the specification and demonstrates the fact that the ethylbenzene content is indeed minor.

In view of this amendment accompanying the RCE, favorable reconsideration is courteously requested.

If there are any residual issues which can be expeditiously resolved by a telephone conference, the Examiner is courteously invited to telephone Counsel at the number indicated below. If Counsel is unavailable, please call Mrs. Richardson at 703-812-5326, so that another can handle the matter.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


I. William Millen, Reg. No. 19,544
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410
Attorney Docket No.: PET-2102
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